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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,784	10/02/2003	David B. Palan	2541	9577

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EXAMINER

SANTIAGO CORDERO, MARIVELISSE

ART UNIT PAPER NUMBER

2617

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/677,784

Applicant(s)

PALAN, DAVID B.

Examiner

Marivelisse Santiago-Cordero

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-8,10,14-32 and 34.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

CONTINUATION SHEET

Response to Arguments

Continuation of 11:

Applicant's arguments filed 5/30/06 have been fully considered but they are not persuasive.

Applicant essentially repeats and builds upon previously explained arguments (see Office Action mailed on 3/27/06). In general, Applicant argues that Kim fails to meet the claimed telephone company central office and its corresponding functionality because it is not "of the type defined in Applicant's claim" (Remarks: page 14-15, particularly, page 15, 1st full paragraph).

In response, Applicant's arguments are directed to a fair characterization of what Applicant names "telephone company central office". As previously explained (for detailed explanation see Office Action mailed on 3/27/06), Kim's element 100 does meet the claimed telephone company switch that resides at the telephone company central office because there is no distinction between the switch plus its functionality and the claimed switch and its corresponding functionality.

In contrast to Applicant's allegations, the claimed language fails to define a particular type of central office. The claimed language does no more than to fairly characterize such entity.

In addition to the above explained deficiencies, it should be noted that the argued limitation concerning normally extending appears to be no more than an admission of prior art; therefore, not novel. Also, the fact that the switch resides in the central office is the intended use

or purpose of the switch placement within the network infrastructure, which by definition, is conventional.

Regarding claim 10, by definition, interfacing occurs between two different boundaries. Applicant's admitted prior art discloses that the subscriber line interface circuit could sit at any point along the telephone line (Applicant's admitted prior art; page 3, lines 18-23); thereby, suggesting that the interfacing function takes place between the subscriber line interface and customer premises for the advantage that, as stated in the last Office Action, the subscriber line interface circuit could sit at any point along the telephone line. In response to applicant's argument that there is no objective evidence (see Remarks: page 17, 3rd full paragraph), the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as stated above, interfacing occurring between two different boundaries and the subscriber line interface circuit sitting at any point along the telephone line is a teaching, suggestion, or motivation found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

Regarding claim 22, Applicant argues that Kim teaches away (See Remarks: page 18, 1st full paragraph). In response, the fact that Applicant has recognized other uses or advantages of Kim cannot be basis for patentability when the difference are obvious and the rejection is based

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on a combination of references. For example, Kim does teach a complete telephone network; therefore, an enabling infrastructure (See Kim: Fig. 1).

Art Unit – Location

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.



LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER